

REMARKS

Applicants have amended their claims herein to better clarify the invention. More specifically claims 1-26 are amended herein to cure certain 35 USC 112, second paragraph rejections.

No new matter has been entered. Reexamination and reconsideration of the application, as amended, is respectfully requested.

Claims 1-26 stand rejected under 35 USC 102(b) as being anticipated by Bemis (U.S. Pat. No. 5,487,160).

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed.Cir. 1987); MPEP 2131. Moreover, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed.Cir. 1989).

Bemis teaches "a method for concurrently backing up the contents of a disk storage system to a backup storage device and processing write I/O requests received by the disk storage system." Col. 3 at Lines 21-25. Bemis nowhere teaches a method wherein an information storage and retrieval system utilizes existing code to operate, wherein that existing code comprises a Concurrent Code Load and (N) phases, and wherein the method provides a code update image comprising a Temporal Coupling File, and wherein the method determines for each of the (N) phases if the Concurrent Code Load invokes the Temporal Coupling File, and if so reads and executes instructions from that Temporal Coupling File, and wherein the

method then operates the information storage and retrieval system using the code update, as recited in Applicants' claims 1, 11, and 19, as filed and as amended herein. This being the case, Applicants respectfully submit that claims 1, 11, and 19, as filed and as amended herein, are patentable over the teachings of Bemis.

Claims 2-10, as filed and as amended herein, depend, directly or indirectly, from claim 1, as amended herein. Under 35 U.S.C. § 112, fourth paragraph, "a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers." Therefore, claims 2-10 comprise all the elements of claim 1. Applicants respectfully submit that claims 2-10, as filed and as amended herein, are patentable over the teachings of Bemis.

Claims 12-18, as filed and as amended herein, depend, directly or indirectly, from claim 11, as amended herein. Under 35 U.S.C. § 112, fourth paragraph, "a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers." Therefore, claims 12-18 comprise all the elements of claim 11. Applicants respectfully submit that claims 12-18, as filed and as amended herein, are patentable over the teachings of Bemis.

Claims 20-26, as filed and as amended herein, depend, directly or indirectly, from claim 19, as amended herein. Under 35 U.S.C. § 112, fourth paragraph, "a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers." Therefore, claims 20-26 comprise all the elements of claim 19. Applicants respectfully submit that claims 20-26, as filed and as amended herein, are patentable over the teachings of Bemis.

Having dealt with all of the outstanding objections and/or rejections of the claims, Applicants submit that the application as amended is in condition for allowance, and an allowance at an early date is respectfully solicited. In the event there are any fee deficiencies or

additional fees are payable, please charge them, or credit an overpayment, to our Deposit Account No. 502262.

Respectfully submitted,

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CERTIFICATE OF ELECTRONIC FILING

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/Reena Mendez/

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October 2, 2007

Date of Signature